

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF SOUTH CAROLINA

Aryee Henderson,

Plaintiff,

v.

Nurse Scott and Nurse Gregg,

Defendants.

C/A No. 4:23-cv-5280-SAL

ORDER

Plaintiff Aryee Henderson, a pro se litigant, filed this action pursuant to 42 U.S.C. § 1983 against the named defendants. Defendant Scott filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(5) and 12(b)(6). [ECF No. 20.] This matter is before the court on the Report and Recommendation (the “Report”) issued by United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), recommending Defendant Scott’s motion be denied, in part, and deemed moot, in part. [ECF No. 45.] Attached to the Report was a notice advising the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. [ECF No. 45-1.] No objections have been filed, and the time for doing so has expired.

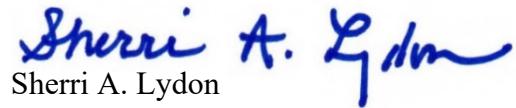
The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the

Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After reviewing the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 45, and incorporates it by reference herein. As a result, Defendant Scott’s motion to dismiss pursuant to Rule 12(b)(5) is DENIED, and Defendant Scott’s motion to dismiss pursuant to Rule 12(b)(6) is deemed MOOT. If he has not already done so, counsel for Defendant Scott is directed to comply with the court’s prior instructions in the Report within two business days of entry of this order. *See* ECF No. 45 at 6. This matter remains with the magistrate judge for further pretrial matters.

IT IS SO ORDERED.

May 22, 2024
Columbia, South Carolina


Sherri A. Lydon
United States District Judge